

Portugal

Section 1. Respect for the Integrity of the Person, Including Freedom from:

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

There were approximately 50,000 law enforcement officials, including police and prison guards. The Ministries of Internal Administration and Justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the Foreigners and Borders Service (SEF), the PSP, and the GNR. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The Judiciary Police are responsible for criminal investigations and report to the Ministry of Justice.

Civilian authorities maintained effective control over the SEF, the PSP, and the GNR, and the government has effective mechanisms to investigate and punish abuse and corruption. An independent ombudsman chosen by parliament and the IGAI investigates complaints of abuse or mistreatment by police. Nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and the Ministry of Internal Administration. According to the CPT report, in 2011 the IGAI opened 349 administrative proceedings for offenses against the physical integrity of the person, from which it launched some 16 inquiries but initiated only two disciplinary proceedings. At the time of the CPT delegation's visit, no case of alleged mistreatment by police officers investigated by the IGAI in the previous three years had resulted in a disciplinary sanction.

Arrest Procedures and Treatment of Detainees

The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and authorities generally followed the guidelines. Persons can be arrested only on a judicial warrant, except that law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody.

Authorities may not hold a suspect for more than 48 hours without bringing him before an investigating judge. Under the law the investigating judge determines whether an arrested person should be detained, released on bail, or released outright. Authorities informed detainees promptly of charges against them.

Investigative detention for most crimes is limited to four months; if authorities do not file a formal charge within that period, they must release the detainee. In cases of serious crimes, such as murder, armed robbery, terrorism, violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the

investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

Bail exists, but detainees are not released on their own recognizance. Depending on the severity of the crime, a detainee's release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police did not always inform detainees of their rights. In the report on its 2012 visit, the CPT stated that, as regards more specifically the Judiciary Police, many detained persons stated that police had only informed them of their rights following an initial period of questioning. The CPT also reported that law enforcement officials denied the majority of persons detained the right of access to a lawyer. The CPT reported, if a detained person cannot afford a private lawyer, he or she only has access to an ex officio lawyer at the court hearing before a judge. This hearing can take place up to 48 hours after the moment of apprehension. The government assumed legal costs for indigent detainees. The CPT delegation also met a number of persons, including those detained by the Judiciary Police, who claimed that they had not been able to inform a member of their family of their detention.

Pretrial Detention: Lengthy pretrial detention remained a problem. As of September 15, there were 2,664 individuals (19 percent of the prison population) in pretrial detention, a decrease from the previous year. The average detention was eight months; pretrial detainees spent an average of six months to a year in incarceration. Lengthy pretrial detention was usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. If a detainee is convicted, pretrial detention counts against his prison sentence. If found innocent, a detainee has the right to request compensation.

Amnesty: In December 2012 the president granted one reduction of prison sentence and one revocation of the penalty of expulsion from the country for one foreigner. There were 205 requests.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination based on race, gender, disability, sexual orientation, language, and social status, and the government effectively enforced these prohibitions. On July 9, the ECRI reported that the law does not expressly make racist motivation an aggravating circumstance for all offenses. The procedure to file a complaint of racial discrimination continues to be lengthy and complicated. The ECRI suggested the current complaints system against police officers concerning racist or racially discriminatory acts was not functional and was seriously underreporting. It suggested the government revise the system to restore confidence in the complaints procedure and the police.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The constitution and the law prohibit discrimination, including discrimination based on sexual orientation and gender identity. The law bars lesbian, gay, bisexual, and transgender couples and single women from receiving medically assisted reproductive health care applied by government-funded health-care providers.